

CIVIL SERVICE COMMISSION MINUTES

October 16, 2002

A meeting of the Civil Service Commission was held at 2:30 p.m., in Room 358 at the County Administration Building, 1600 Pacific Highway, San Diego, California.

Present were:

Gordon Austin
Barry I. Newman
Sigrid Pate
Mary Gwen Brummitt
Marc Sandstrom

Comprising a quorum of the Commission

Support Staff Present:

Larry Cook, Executive Officer
Ralph Shadwell, Senior Deputy County Counsel
Selinda Hurtado-Miller, Reporting

CIVIL SERVICE COMMISSION MINUTES
October 16, 2002

1:15 p.m. CLOSED SESSION: Discussion of Personnel Matters and Pending Litigation

2:30 p.m. OPEN SESSION: Room 358, 1600 Pacific Highway,
San Diego, California 92101

<u>Discussion Items</u>	<u>Continued</u>	<u>Referred</u>	<u>Withdrawn</u>
6,8,9,13		10,11,12	7

COMMENTS Motion by Pate to approve all items not held for discussion; seconded by Newman. Carried.

CLOSED SESSION AGENDA
County Administration Center, Room 458
(Notice pursuant to Government Code Sec. 54954.2)
Members of the Public may be present at this
location to hear the announcement of the
Closed Session Agenda

A. Commissioner Newman: Michael Baranic, Esq., on behalf of **William Lewis**, Deputy Sheriff-Detentions, appealing an Order of Suspension and Charges from the Sheriff's Department.

B. Commissioner Newman: Richard Pinckard, Esq., on behalf of **Ernest Stratis**, Deputy Sheriff-Detentions, appealing an Order of Pay Step Reduction and Charges from the Sheriff's Department.

C. Michael Kolb, Labor Relations Manager: Commission to give direction to Labor Relations to begin the meet and confer process regarding the establishment of a new Civil Service Rule pertaining to the administrative review of Citizens Law Enforcement Review Board findings.

D. Public Employee Performance Evaluation: Executive Officer

REGULAR AGENDA
County Administration Center, Room 358

NOTE: Five total minutes will be allocated for input on Agenda items unless additional time is requested at the outset and the President of the Commission approves it.

MINUTES

1. Approval of the Minutes of the regular meeting of September 18, 2002.

Approved.

CONFIRMATION OF ASSIGNMENTS

2. Commissioner Newman: Michael Baranic, Esq., on behalf of **Rigoberto Padilla**, former Deputy Sheriff-Detentions, appealing an Order of Termination and Charges from the Sheriff's Department.

Confirmed.

3. Commissioner Austin: Everett Bobbitt, Esq., on behalf of **Reginald Griddine**, former Deputy Sheriff, appealing an Order of Termination and Charges from the Sheriff's Department.

Confirmed.

4. Commissioner Brummitt: Wendell Prude, S.E.I.U. Local 2028, on behalf of **Gary Nevills**, Detentions Processing Technician, appealing an Order of Pay Step Reduction and Removal of Trainer Premium from the Sheriff's Department.

Confirmed.

5. Commissioner Pate: **Tim Mathis**, former Protective Services Worker II, appealing an Order of Automatic Separation for Failure to Return After Leave from the Health and Human Services Agency (HHSa).

Confirmed.

6. **James David Dominguez**, former Painter, appealing a Final Order of Removal and Charges from the Department of General Services.

RECOMMENDATION: Deny Request.

Commissioner Austin requested that this item be pulled for clarification from the Executive Officer regarding Appellant's late filing of his appeal.

Larry Cook, Executive Officer explained that this was an unusual situation (incarceration), resulting in a 4-day late filing by Mr. Dominguez. Appellant attempted to file his appeal through the Union, however due to communication between himself and the Union rep, he was of the understanding that the Union would not represent him in this matter. The following day, Mr. Dominguez filed his appeal, which was received in the Commission office 4 days past the appeal deadline. Mr. Cook asked the Commission to refer to the Velez case in which the Court upheld a late filing, having found "good cause", as well as the Diaz matter currently being heard. Legal representative for the Appellant, although not present at this meeting, has been in contact with the Commission office and has asked for a continuance of this item, which staff strongly recommends due to the Velez court decision.

Commissioner Sandstrom offered that a court would probably grant a hearing in this matter due to the above circumstances, and moved to grant a hearing.

**Motion by Sandstrom to grant a hearing; seconded by Pate.
Carried. Commissioner Brummitt assigned.**

AYES:	Austin, Pate, Brummitt, Sandstrom
NOES:	None
ABSTENTIONS:	Newman

WITHDRAWALS

7. Commissioner Newman: Brian Polejes, S.E.I.U. Local 535, on behalf of **Carlos Hernandez**, Eligibility Technician, appealing a Final Order of Suspension and Transfer and Charges from the HHSA.

Withdrawn.

DISCIPLINES

Findings

8. Commissioner Newman: Michael Baranic, Esq., on behalf of **William Lewis**, Deputy Sheriff-Detentions, appealing an Order of Suspension and Charges from the Sheriff's Department.

FINDINGS AND RECOMMENDATIONS:

The matter of the appeal of William Lewis was presented to the Civil Service Commission. Prior to the commencement of the hearing, the parties entered into a stipulation reducing the originally imposed penalty of a thirty working-day suspension to a twenty-three day suspension. Appellant has agreed to withdraw his appeal. It is therefore recommended that the Stipulation be accepted and the Withdrawal of Appeal be approved by the Commission and incorporated herein by reference; that the Employee be awarded back pay and benefits, including interest, for seven days (59.5) hours; that the Commission read and file this report; and that the proposed decision shall become effective upon the date of approval by the Civil Service Commission.

Motion by Newman to approve Findings, Conclusions and Recommendations; seconded by Pate. Carried.

9. Commissioner Newman: Richard Pinckard, Esq., on behalf of **Ernest Stratis**, Deputy Sheriff-Detentions, appealing an Order of Pay Step Reduction and Charges from the Sheriff's Department.

FINDINGS AND RECOMMENDATIONS:

The matter of the appeal of Ernest Stratis was presented to the Civil Service Commission. Prior to the commencement of the hearing, the parties entered into a stipulation reducing the originally imposed penalty of a reduction in compensation equivalent to a two working-day suspension to a reduction in compensation equivalent to a one work-day suspension. Appellant has agreed to withdraw his appeal. It is therefore recommended that the Stipulation be accepted and the Withdrawal of Appeal be approved by the Commission and incorporated herein by reference; that Employee be awarded back pay and benefits, including interest, the equivalent of one work-day; that the Commission read and file this report; and that the proposed decision shall become effective upon the date of approval by the Civil Service Commission.

Motion by Newman to approve Findings, Conclusions and Recommendations; seconded by Sandstrom. Carried.

DISCRIMINATION

Complaints

10. **Nasser Nemati**, applicant, alleging age and national origin discrimination by the Department of Planning and Land Use.

RECOMMENDATION: Assign an Investigating Officer and concurrently appoint the Office of Internal Affairs to conduct an investigation and report back.

Staff recommendation approved. Commissioner Sandstrom appointed.

11. **Jo Ann Siah**, former Legal Support Assistant I, Department of the Public Defender, alleging discrimination based on skin color by the Department of the Public Defender.

RECOMMENDATION: Assign an Investigating Officer and concurrently appoint the Office of Internal Affairs to conduct an investigation and report back.

Staff recommendation approved. Commissioner Newman appointed.

12. **Jo Pastore**, Deputy Public Defender III, alleging retaliation discrimination by the Department of the Public Defender.

RECOMMENDATION: Assign an Investigating Officer and concurrently appoint the Office of Internal Affairs to conduct an investigation and report back. (See No. 15 below.)

Staff recommendation approved. Commissioner Austin appointed.

Findings

13. Commissioner Newman: **Esteban Zemacki**, former Drafting Technician II, Department of Public Works (DPW), alleging discrimination based on skin color, retaliation and other non-job related factors by the DPW.

FINDINGS AND RECOMMENDATIONS:

At the regular meeting of the Civil Service Commission on May 15, 2002, the Commission appointed Barry I. Newman to investigate the complaint submitted by Complainant. Mr. Zemacki also requested a Rule X hearing. The complaint was referred to the Office of Internal Affairs for investigation and report back. The report of OIA was received and reviewed by the Investigating Officer, who concurred with the findings that there was no evidence to support Employee's allegations of discrimination based on skin color, retaliation and other non-job related factors by the DPW and that probable cause that a violation of discrimination laws occurred was not established in this matter. It is therefore recommended that this complaint be denied; Complainant's request for a Rule X hearing be held in abeyance pending the outcome of his disciplinary appeal; the Commission approve and file this report with a findings of no probable cause that Complainant has been discriminated against on any basis protected by law; and that the proposed decision shall become effective upon the date of approval by the Civil Service Commission.

Motion by Newman to approve Findings and Recommendations; seconded by Brummitt. Carried.

SELECTION PROCESS

Complaints

14. **Esteban Zemacki**, former Drafting Technician III, DPW, appealing the Department of Human Resources' determination that he is ineligible to compete in the recruitment for the classification of Geographic Information Systems Analyst.

RECOMMENDATION: Continue to hold in abeyance pending the outcome of his Rule VII hearing.

Staff recommendation approved.

15. **Jo Pastore**, Deputy Public Defender III, appealing her non-selection for the classification of Deputy Public Defender IV by the Department of the Public Defender

RECOMMENDATION: Hold in abeyance pending the outcome of the discrimination investigation listed above. (See No. 12 above.)

Staff recommendation approved.

Findings

16. **Lorena Pulido**, appeal of removal of her name by the Department of Human Resources from the employment list for Correctional Deputy Probation Officer I.

17. **Monica Ocampo**, appeal of removal of her name by the Department of Human Resources from the employment list for Corrections Deputy Sheriff.

RECOMMENDATION: Ratify Item Nos. 16 & 17. Appellants have been successful in the appellate process provided by Civil Service Rule 4.2.2.

Item Nos. 16 & 17 ratified.

OTHER MATTERS

Extension of Temporary Appointments

18. Auditor and Controller

1 Staff Development Specialist (Amy Bouck)

19. Department of Animal Control

7 Animal Control Officer Trainees (Raymond Gray, Andrea House, Michelle Knuttila, Mitchell Levy, Georgina Raygosa, Christopher Saucier, Sandra Veik)

20. Health and Human Services Agency

A. 2 Eligibility Technicians (Samer Elchahabi, Olga Kaeg)

B. 13 Protective Services Workers I (Arleth Rubio, Kristin Niemann, Virgilio Cabalda, John Fong, Neda Rivera, Israel Lefebvre, Judy Wonders, Bettina Heirmann, Maria Snyder, Karen Lewis, April Karch, Nicol Tarvin, Sharaye Samuels)

C. 1 Protective Services Worker II (Bridgette Hunter)

- D. 2 Recreational Care Worker Trainees (Leah Avery, Blanca Ojeda)
- E. 3 Social Workers I (Deborah Witherington, Nila Romero, Anita Lindsey)

21. Department of the Alternate Public Defender

1 Deputy Alternate Public Defender I (Candi Mayes)

RECOMMENDATION: Ratify Item Nos. 18-21.

Item Nos. 18-21 ratified.

22. Public Input.

ADJOURNMENT: 3:00 p.m.

NEXT MEETING OF THE CIVIL SERVICE COMMISSION WILL BE NOVEMBER 20, 2002.